IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 3513 of 2000

For Approval and Signature :

Hon'ble MR. JUSTICE M.R. CALLA

and

Hon'ble MR. JUSTICE J.R. VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

SHREYAS ASSOCIATES

Appearance:

MR KIRIT I PATEL for Appellant

MR NM KAPADIA for Respondent

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. This Appeal was admitted by a common order separately passed along with other cognate matters. This First Appeal u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949, is directed against the order dated 31.3.2000, passed by the Small Cause Court No.10, Ahmedabad, in Municipal Valuation Appeal No. 2442 of 1996 for the year 1995.96 in respect of Survey No. 274/B/GF/32 situated in Ward Ellisbridge-A/1 in Ahmedabad.

2. Municipal Corporation had fixed the Gross Rateable Value at Rs. 8587/- in respect of the premises as aforesaid for the year 1995-96. This decision was challenged before the Small Causes Court and the Court reduced the GRV from 8587.00 to Rs. 4684.00. The impugned order dated 31.3.2000 shows that the Small Cause Court had placed reliance on the Valuation Report - Form No. 1/2. However, there is no dispute that the valuer was not examined by the Assessee and the Municipal Corporation did not get any opportunity to cross-examine the valuer and yet the Court had passed the impugned order.

3. Whereas the factual position that the valuer was not examined, is not disputed by Mr. N.M. Kapadia appearing for the assessee, the case deserves to be remanded and we do not find it necessary to deal with other points which have been raised in the Appeal and all such points will be open to be considered in remanded proceedings, if raised. We accordingly, set aside the impugned order passed in the Municipal Valuation Appeal on 31.3.2000 by the Small Cause Court, Ahmedabad and remand the matter to the Small Cause Court for deciding the Appeal afresh in accordance with law after examining the author of the valuation report which was relied upon by the court without the consent of the Municipal Corporation and the Municipal Corporation shall be afforded an opportunity to cross-examine such valuer. It will also be open for the Municipal Corporation to move an application before the Small Cause Court u/s 409 of the Bombay Provincial Municipal Corporation Act, 1949 for appointment of an expert if they so choose and on such application if the court feels satisfied, it may order accordingly and decide the matter afresh thereafter. This Appeal is partly allowed as above with no order as to costs.

4. It is expected that the Small Cause Court shall give priority in deciding this remanded Appeal and shall decide the same preferably within a period of six months

from the date of the certified copy of this order is produced before the court by either of the parties and to pass appropriate order in accordinace with law.

(M.R. Calla, J.)

(J.R. Vora, J.)

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